

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

KONA ICE, INC.,

Civil Action No. 1:17-cv-02809-GJH

Plaintiff,

vs.

TIMOTHY SNEE, et al.,

Defendants.

PLAINTIFF KONA ICE, INC.'S ANSWER TO DEFENDANTS' COUNTERCLAIMS

Plaintiff Kona Ice, Inc. ("Kona Ice") by and through its counsel, herein replies to the numbered paragraphs of Defendants' Counterclaims ("Counterclaim"):

1. In response to the Paragraph 1 of the Counterclaim, Kona Ice admits that Defendants have asserted a Declaratory Judgment action for a declaration of non-infringement and invalidity of U.S. Patent No. 9,751,447.
2. In response to Paragraph 2 of the Counterclaim, Kona Ice admits the allegations.
3. Kona Ice admits the allegations of Paragraph 3 of the Counterclaim.
4. Kona Ice admits the allegations of Paragraph 4 of the Counterclaim.
5. Kona Ice admits the allegations of Paragraph 5 of the Counterclaim.
6. Kona Ice incorporates by reference its responses to the allegations of Paragraphs 1-5 of the Counterclaim.
7. Kona Ice admits the allegations of Paragraph 7 of the Counterclaim.
8. Kona Ice admits the allegations of Paragraph 8 of the Counterclaim.
9. Kona Ice denies the allegations of Paragraph 9 of the Counterclaim.

10. Kona Ice denies the allegations of Paragraph 10 of the Counterclaim.
11. Kona Ice denies the allegations of Paragraph 11 of the Counterclaim.
12. Kona Ice incorporates by reference its responses to the allegations of Paragraphs 1-11 of the Counterclaim.
13. Kona Ice denies the allegations of Paragraph 13 of the Counterclaim.
14. Kona Ice denies the allegations of Paragraph 14 of the Counterclaim.
15. Kona Ice denies the allegations of Paragraph 15 of the Counterclaim.
16. Kona Ice incorporates by reference its responses to the allegations of Paragraphs 1-15 of the Counterclaim.
17. Kona Ice denies the allegations of Paragraph 17 of the Counterclaim, to the extent Kona Ice is without knowledge regarding the entity "Tikiz development group."
18. Kona Ice denies the allegations of Paragraph 18 of the Counterclaim.
19. In response to the allegations of Paragraph 19 of the Counterclaim, Kona Ice admits only that Tony Lamb, President and CEO of Kona Ice, has signed a document titled "Settlement Agreement and Release," but denies the remaining allegations.
20. In response to the allegations of Paragraph 20 of the Counterclaim, Kona Ice admits only that Kona Ice and Mr. Schatz are in possession of an executed copy of a document titled "Settlement Agreement and Release," but denies the remaining allegations.
21. Kona Ice denies the allegations of Paragraph 21 of the Counterclaim.
22. Kona Ice denies the allegations of Paragraph 22 of the Counterclaim.
23. Kona Ice denies the allegations of Paragraph 23 of the Counterclaim.
24. Kona Ice incorporates by reference its responses to the allegations of Paragraphs 1-23 of the Counterclaim.

25. Kona Ice denies the allegations of Paragraph 25 of the Counterclaim.

26. In response to the allegations of Paragraph 26 of the Counterclaim, Kona Ice admits only that a document titled "Settlement Agreement and Release" includes a liquidated damages clause, but denies the remaining allegations.

27. Kona Ice denies the allegations of Paragraph 27 of the Counterclaim.

FIRST AFFIRMATIVE DEFENSE

28. The parties do not have a binding contract between each other, and are otherwise not in privity.

WHEREFORE, Plaintiff Kona Ice, Inc. prays:

A. Defendants' Counterclaim be dismissed with prejudice and that judgment be entered for Kona Ice;

B. Kona Ice be awarded its costs and attorneys' fees in defending against Defendants' Counterclaim;

C. For such other and further relief as the Court deems just and proper.

Dated: February 27, 2018

By: Kathleen M. McDonald
Kathleen M. McDonald (Bar No. 00764)
Kerr McDonald, LLP
111 S. Calvert Street, Suite 1945
Baltimore, Maryland 21202
Telephone: 410-539-2900
Facsimile: 410-539-2956
kmcDonald@kerrmcdonald.com

Attorneys for Plaintiff

OF COUNSEL:

Brett A. Schatz (Ohio Reg. No. 0072038)

WOOD, HERRON & EVANS, L.L.P.

441 Vine Street, 2700 Carew Tower

Cincinnati, Ohio 45202

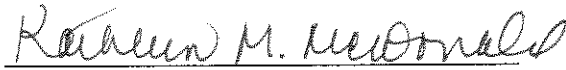
Telephone: 513-241-2324

Facsimile: 513-241-2324

bschatz@whe-law.com

CERTIFICATE OF SERVICE

I hereby certify that I electronically filed the foregoing with the Clerk of Court using the CM/ECF system, which will send a notification of such filing all counsel of record who have appeared in this case.



Kathleen M. McDonald (Bar No. 00764)
Kerr McDonald, LLP
111 S. Calvert Street, Suite 1945
Baltimore, Maryland 21202
Telephone: 410-539-2900
Facsimile: 410-539-2956
kmcdonald@kerrmcdonald.com

Attorneys for Plaintiff